

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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G.I. HOME DEVELOPING CORP.,

Plaintiff,

-against-

TOWN OF BROOKHAVEN, et al.,

Defendants.
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LINDSAY, Magistrate Judge:

Presently before the court is the defendants' letter motion, dated April 4, 2008, seeking reconsideration of the court's April 1, 2008 order that denied their request to stay discovery pending determination of an anticipated motion to dismiss the complaint. Plaintiff opposes the application by letter dated April 11, 2008. For the reasons that follow, the court grants reconsideration and, upon such reconsideration, adheres to the April 1, 2008 order.

The April 1st order denied defendants' request to defer the initial conference pending determination of their motion to dismiss, construing their application as a request to stay discovery. The defendants had not addressed any of the relevant factors nor had they filed their motion papers, making it impossible to assess whether there was good cause to stay discovery. In support of their renewed motion, the defendants have annexed a copy of their memorandum of law for the court's review.

The plaintiff's complaint alleges a claim for relief against eight defendants pursuant to 42 U.S.C. §1983 for the alleged violation of plaintiff's Federal and State Constitutional Due Process Rights, as well as for attorneys' fees pursuant to 42 U.S.C. § 1988. In addition, the plaintiff seeks a declaratory judgment pursuant to 28 U.S.C. § 2201. The court has reviewed the defendants' memorandum of law and finds that while they may achieve some level of success, it is doubtful that action will be dismissed in its entirety. Accordingly, a full stay of discovery is unwarranted. However, to accommodate the defendants' concerns that the depositions of Town officials will be unnecessarily costly, the court directs that until such time as the motion to dismiss is decided that discovery be limited to document discovery. The parties shall notify the undersigned in writing within two weeks of a decision on the motion to dismiss. The parties are reminded to meet and confer regarding the court's proposed pretrial scheduling order. See Dkt. No. 7. If the parties agree with the court's proposal and there are no other issues for the court to address, they shall so notify the court in writing and the initial conference scheduled for April 23, 2008 will be canceled.

Dated: Central Islip, New York
April 15, 2008

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge